

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2018/0359
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<b>Responsible Officer:</b>	Seth Dias
<b>Land to be developed (Address):</b>	Lot 204 DP 1212459, 8 Orchard Street WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Modification of Development Consent N0541/17 granted for Construction of a new two storey dwelling and driveway
<b>Zoning:</b>	R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Oliver De Almeida Fainbaum Michele Moriki
<b>Applicant:</b>	Clarendon Homes Pty Ltd

<b>Application lodged:</b>	12/07/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	19/07/2018 to 06/08/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 204 DP 1212459 , 8 Orchard Street WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Orchard Street.</p> <p>The site is regular in shape with a frontage of 12m along Orchard Street and a depth of 30.32m. The site has a surveyed area of 364.40m<sup>2</sup>.</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a double storey dwelling that is currently under construction.</p> <p>The site slopes from south to north at approximately 6.6%.</p> <p>The site only contains turfed grass and small garden beds. No major flora such as trees or large shrubs currently exist within the site boundaries.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by other one and two storey dwelling houses, which are both under construction and complete.</p>

Map:



## SITE HISTORY

The land parcel was recently created during subdivision N0379/14. A search of Council's records has revealed the following relevant history:

- N0541/17: Construction of a new two storey dwelling and driveway approved by council on 29th January 2018

## PROPOSED DEVELOPMENT IN DETAIL

The modification seeks to re-position the proposed retaining walls approved by development consent N0541/17, which are at the existing ground level, with a maximum height of 780 mm.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for N0541/17, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<b>Yes</b> The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under N0541/17
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2011 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape modification proposal is acceptable subject to completion of landscaping.



Internal Referral Body	Comments
	Council's Landscape section have assessed the modification application against then following Pittwater DCP21 Control: C.6.2 Natural Environment and Landscaping Principles
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <p>The application will modify the form of approved landscaping works which accompany the approved two storey dwelling and driveway. The proposed modifications relate to a re-positioning of the low level retaining walls which were included to support the minor site works required in the benching of the site to construct the dwelling.</p> <p>No change in the recommended Development Engineering conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

#### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an

application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

N/A

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.7m	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	4.013m (to front porch);	unaltered	Yes



		5.589m (to study); and 6.617m (to garage)		
Rear building line	6.5m	4.399m to ground level and 8.359m to upper level	unaltered	Yes
Side building line	0.9m	0.25m	unaltered	No
	1.5m	1.32m	unaltered	N/A
Landscaped area	35%	42% or 153.2m <sup>2</sup>	unaltered	N/A

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3)	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Pittwater Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this application.

### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

**RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0359 for Modification of Development Consent N0541/17 granted for Construction of a new two storey dwelling and driveway on land at Lot 204 DP 1212459,8 Orchard Street, WARRIEWOOD, subject to the conditions printed below:

**A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet 1 Rev. L	26.09.16	Clarendon Homes
Sheet 2 Rev. L Site Plan	19.09.16	Clarendon Homes
Sheet 3 Rev. L Ground Floor Plan	26.09.16	Clarendon Homes
Sheet 4 Rev. L First Floor Plan	26.09.16	Clarendon Homes
Sheet 5 Rev. L Elevations	26.09.16	Clarendon Homes
Sheet 6 Rev. L Elevations cont.	26.09.16	Clarendon Homes
Sheet 7 Rev. L Sections and Details	26.09.16	Clarendon Homes
Sheet 2.1 Rev. L Construction Management Plan and Erosion & Sediment Control Plan	26.09.16	Clarendon Homes
Sheet 2.2 Rev. L Site Analysis Plan	26.09.16	Clarendon Homes
Sheet 2.3 Rev. L Shadow Diagrams at 21st June	26.09.16	Clarendon Homes
Sheet 2.4 Rev. L Notification Plan	26.09.16	Clarendon Homes

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Report	10/07/2018	Clarendon Homes
Statement of Modification	29/05/2018	Clarendon Homes

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

d) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

f) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>

Sheet 2 Rev. L Site Plan	19.09.16	Clarendon Homes
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Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Management Report	10/07/2018	Clarendon Homes

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**

**Seth Dias, Planner**




The application is determined on 10/10/2018, under the delegated authority of:



**Anna Williams, Manager Development Assessments**






















## ATTACHMENT A

Notification Plan	Title	Date
 2018/453586	Plans - Notification	10/07/2018

## ATTACHMENT B

Notification Document	Title	Date
 2018/457185	Notification Map	18/07/2018

## ATTACHMENT C

Reference Number	Document	Date
 2018/453571	Report - Statement of Modification	31/05/2018
 2018/453568	DA Fee Quote	26/06/2018
 2018/453599	Plans - Master Set	10/07/2018
 2018/453586	Plans - Notification	10/07/2018
 2018/453572	Report - Waste Management	10/07/2018
 MOD2018/0359	8 Orchard Street WARRIEWOOD NSW 2102 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	12/07/2018
 2018/453557	Modification Application Form	17/07/2018
 2018/453558	Applicants Details	17/07/2018
 2018/453583	Plans - Stormwater	17/07/2018
 2018/453584	Plans - Shadow Diagram	17/07/2018
 2018/453585	Plans - Landscape	17/07/2018
 2018/453559	Clarendon Homes Receipt	17/07/2018
 2018/453592	Plans - External	17/07/2018
 2018/453590	Plans - Internal	17/07/2018
 2018/453684	DA Acknowledgement Letter - Clarendon Homes Pty Ltd	17/07/2018
 2018/457137	ARP Notification Map	18/07/2018
 2018/457164	DA Acknowledgement Letter (not integrated) - Clarendon Homes Pty Ltd	18/07/2018
 2018/457185	Notification Map	18/07/2018
 2018/457195	Notification Letter - 8	18/07/2018
 2018/545510	Development Engineering Referral Response	28/08/2018
 2018/610400	Landscape Referral Response	20/09/2018